

REMARKS

Upon entry of the foregoing Amendment, claims 1-7 and 9-39 are pending in the application. Claims 1-7, 9-34 and 37-39 have been amended. Claims 8 and 40 have been cancelled. No claims have been newly added. Applicant believes that this Amendment does not add new matter. In view of the foregoing Amendment and the following Remarks, allowance of all the pending claims is requested.

REJECTION UNDER 35 U.S.C. § 101

The Examiner has rejected claims 1-40 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. In particular, the Examiner alleges that the system recited in claims 1-39 includes a "does not fall within at least one of the four categories of patent eligible subject matter" because the claims allegedly "correspond[] to software program elements and not tangible hardware components."

First of all, the Examiner has not cited any legal precedent that software is unpatentable. Thus, the legal basis for the rejection is dubious at best. Nonetheless, although Applicant disagrees with the propriety of this rejection, solely in an effort to expedite prosecution, independent claim 1 has been amended to recite, among other things, that the system includes "at least one data repository configured to store, on a per analyst basis, current estimate data for a plurality of analysts," and that the system further includes "a computer communicatively coupled to the at least one data repository, wherein the computer is configured to" perform various functions.

As such, the system recited in independent claim 1 does not merely correspond to software program elements for at least the reason that various tangible hardware components are recited for realizing the functionality further recited therein. In addition, claim 8 has been cancelled without prejudice or disclaimer, and claims 2-7 and 9-39 each depend from and add features to independent claim 1. As such, the rejection of claim 8 is rendered moot in view of the foregoing amendment to the claims, while claims 2-7 and 9-39 each recite statutory subject matter for at least the same reasons as discussed for independent claim 1. Moreover, the

claims clearly involve a transformation of data, and the Examiner has failed to establish otherwise.

The Examiner also alleges that claim 40 is non-statutory "because the claims do not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result." Although Applicant also disagrees with the propriety of this rejection, or that this is the relevant legal test, solely in an effort to expedite prosecution, independent claim 40 has been cancelled without prejudice or disclaimer. As such, the rejection of independent claim 40 is also rendered moot in view of the foregoing amendment to the claims.

Accordingly, for at least the foregoing reasons, withdrawal of the rejection under 35 U.S.C. § 101 is earnestly sought.

REJECTION UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The Examiner has rejected claims 1-40 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant disagrees with the propriety of this rejection set forth by the Examiner, as the pending claims prior to the foregoing amendment to the claims were clearly definite and would not prevent a person of ordinary skill in the art from interpreting the metes and bounds of the claims. However, solely in an effort to expedite prosecution, and in no way acquiescing to the propriety of the alleged rejection, independent claim 1 has been amended as indicated above, thereby rendering the rejection moot. Furthermore, the amendments to claims 2-7, 9-34, and 37-39 render the rejection moot with regard to these claims, and the cancellation of claims 8 and 40 (without prejudice or disclaimer) render the rejection moot with regard to these claims.

Accordingly, for at least the foregoing reasons, withdrawal of the rejection under 35 U.S.C. § 112, second paragraph is earnestly sought.

REJECTION UNDER 35 U.S.C. § 103

The Examiner has rejected claim 40 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent No. 5,557,513 to Frey et al. ("Frey"). Although Applicant disagrees with the propriety of this rejection, solely in an effort to expedite prosecution, independent claim 40 has been cancelled without prejudice or disclaimer, thereby rendering this rejection moot. Accordingly, withdrawal of the rejection under 35 U.S.C. § 103 is earnestly sought.

CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action. As such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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